

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION**

**ALICE HILL, on Behalf of DAVID HILL,
Deceased,**

PLAINTIFF,

VS.

CIVIL ACTION NO. 3:03CV60-P-D

KOPPERS, INC. and BEAZER EAST, INC.,

DEFENDANTS.

ORDER

In accordance with a Memorandum Opinion issued this day, **IT IS ORDERED AND ADJUDGED** that:

(1) The defendants' motions to exclude the expert testimony of William R. Sawyer [1271] and James G. Dahlgren [1273] are **GRANTED**; thus,

(2) The causation opinions of Drs. Sawyer and Dahlgren are excluded;

(3) The defendants' motion for summary judgment [1275] is **GRANTED** as to the plaintiff's negligence, gross negligence, negligence per se, "intentional tort," conspiracy, strict liability, and failure to warn claims for failure establish a genuine issue of material fact warranting a trial regarding the causation element required by each of these claims; whereas,

(4) The court reserves its ruling on the plaintiff's trespass and nuisance claims until the matters are more fully briefed;

(5) The defendants shall file their brief within 10 business days of entry of this order, the plaintiff's shall file their response within 10 business days of receipt of the defendants' brief, and the defendants shall file their reply within 5 business days of receipt of the plaintiff's response.

SO ORDERED this the 11th day of December, A.D., 2009.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE